

Department of General Services





Construction Contracts & Statute of Limitations

Stakeholder Meetings

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Meeting Logistics





Introduction

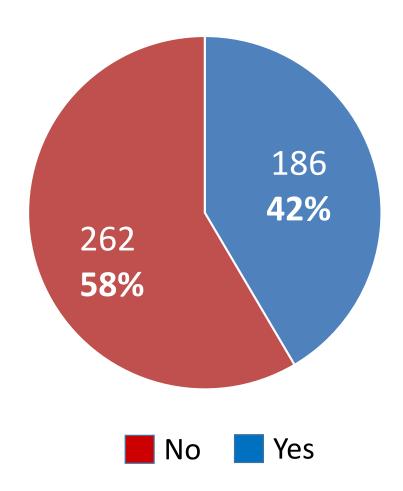
- Directed by 2019 Appropriation Act
- Sent survey to 1,558 stakeholders on 8/19/19
- Received 507 responses

The data shown is actual responses received for each question. Not all respondents answered every question.





Question: Were you aware that the Commonwealth of Virginia does not have a statute of limitations regarding construction and professional services contracts claims?







Survey Response Overview

	A/E	Contractor	Attorney	Surety	State Govt/ Higher Ed	Local Govt
# of responses (Total 507)	269 53%	138 27%	10 2%	24 5%	19 4%	47 9%
30+ Years of Experience	60%	67%	80%	67%	74%	83%
Certified Small Bus (Yes)	119 44%	78 57%	0	1 4%	0	0
Aware COVA does	74 of 233	69 of 131	6 of 6	18 of 22	7 of 15	12 of 41
not have a SOL (yes)	32%	53%	100%	82%	47%	29%
Claims responses	19 (15 PS, 4 CS)	9 (4 PS, 5 CS)	0	0	4 (2 PS, 2 CS)	3 (3 CS) ₅





Nature of Claims

```
subconsultant
                                              architect contract
         voltage/load
          rework comply parking expected reconfig
                                                   Owner fai
                              Water death place new
                supplemental
                     money infiltration
                                                            irregularities
        incomplete
                                       ramp
                     Contractor beyond damage
         remediation \
                                                          Defective
                                  responsibility built Structural
      caused pipes Engineer
                     Envelope
                             provided
                                                    specifications
     Tenant Claims
    Subsurface^{
m Work}
                                             sewage Leaks leak
                                                   incorrect substandard
                  things Cracked
collapse
                                       discrepancy
       humidity without inadequate
                                   keep ultimately resulting
       materials
                pump
                                     compliant
                 durability tank
workmanship
                                 laim sediment 101
        undergound
          system
                                                 designed
                    Piping specification
                        claimed
                                                  installed
             1ssues
```





Claims Overview

Parties to the claim:

A/E	19
Contractor	9
Attorney	0
Surety	0
State Government/ Higher Education	4
Local Government	3

Type of Claim:

Professional Services	21
Construction	14





Claims Overview Continued

Procurement Method Used:

DBB	CM	DB	Emergency	A/E	Don't Know
20	5	5	1	2	2
57%	14%	14%	3%	6%	6%





TIME BEYOND COMPLETION	TYPE OF CLAIM		INITIAL VALUE OF CONTRACT		INITIAL VALUE OF CLAIM	SE	ITLED AMOUNT OF CLAIM
Less than 1	Professional Services	П	\$ 331,835,000.00	Г	\$ 23,295,000.00	\$	11,030,000.00
Less than 1	Construction	Ц	\$ 15,675,000.00	L	\$ 3,291,000.00	\$	1,091,000.00
				_		_	
1-3	Professional Services		\$ 45,684,562.00		\$ 10,406,500.00		\$4,765,000.00
1-3	Construction	Ш	\$ 16,968,000.00		\$ 2,906,477.00	\$	1,420,096.00
-				_		_	40.00
4 - 6	Professional Services	4 4	\$ 34,400,000.00	l	\$ 1,565,000.00	┡	\$0.00
4 - 6	Construction	Ш	\$ 11,300,000.00	_	\$ 26,250,000.00	_	\$108,000.00
7-9	Professional Services	П	0	Г	0		0
7-9	Construction		Do Not Know		\$ 2,000,000.00	\$	600,000.00
10 or more	Professional Services		0		0		0
10 or more	Construction		\$ 79,000,000.00		\$ 20,130,000.00		\$12,000,000.00





Review of data in the handout





Errors and Omissions

If the Commonwealth of Virginia adopted a statute of limitations, how would it affect your Errors and Omissions Insurance based on the following:

<u>Value</u>	SOL Limit
\$5 Million	5 year, 10 year, 30 year
\$50 Million	5 year, 10 year, 30 year
\$200 Million	5 year, 10 year, 30 year

(The charts reflect the A/E responses and Insurers responses – pages 2-4)





Performance and Payment Bond

If the Commonwealth of Virginia adopted a statute of limitations, how would it affect your Performance and Payment Bond based on the following:

<u>Value</u>	SOL Limit
\$5 Million	5 year, 10 year, 30 year
\$50 Million	5 year, 10 year, 30 year
\$200 Million	5 year, 10 year, 30 year

(The tables reflect Contractor responses and Insurers responses-pages 5-7)





Additional Survey Questions

- Additional data charts showing the following:
 - Would adding a statute of limitations affect the overall cost of construction/design projects?
 - Would a statute of limitations require a greater need to extend warranties?
 - Would a statute of limitations require a greater need for more inspections?





Presentations